

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

August 15, 2006

In re application of : MARK T. MERCER
Serial No. : 10/812,569
Filed : March 30, 2004
For : FLOATING DEBRIS AND WEEDLINE MARKER
Examiner : Ed Swinehart
Art Unit : 3617
Our File No. : 10796.6803

CERTIFICATION OF E-MAILING

I hereby certify that this correspondence, and any attachments thereto, is being filed via electronic mail with the Commissioner For Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

Betty Bernal
Name of Person Mailing
Paper

Betty Bernal
Signature

08/15/2006
Date

AMENDMENT

Mail Stop Fee Amendments
Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to the Office Action dated March 15, 2006, please amend the application as follows:

Amendments to the Claims are reflected in the listing of claims, which begins on page 2 of this paper.

Remarks/Arguments begin on page 10 of this paper.

Amendment to the Claims

This listing of claims will replace all prior versions, and listings, of claims in the application:

Listing of Claims

CLAIM 1 (cancelled)

CLAIM 2 (currently amended) The marker of claim 61 wherein at least a portion of the elongated tube that protrudes out of the body of water is provided with a high fluorescent color to improve visibility of said elongated tube.

CLAIM 3 (currently amended) The marker of claim 61 further including a loop member attached at a second end of said elongated tube to aid in retrieving said elongated tube from a body of water.

CLAIM 4 (currently amended) The marker of claim 61 wherein said floatable member is a piece of foam.

CLAIM 5 (currently amended) The marker of claim 61 wherein said weight is a piece of steel.

CLAIM 6 (currently amended) ~~The marker of claim 1 further including~~ A marker for use in marking an object disposed within or floating on a body of water, said marker comprising:

an elongated tube having a first end and a second end;
a weight internally disposed within said elongated tube at a first end of said elongated tube; and

a floatable member externally disposed on said elongated tube at an intermediate position along said elongated tube;

wherein when positioned within a body of water to mark an object said first end of said tube is disposed underwater and a portion of elongated tube protrudes out of the body of water; and

one or more rattle members disposed within said elongated tube between said weight and the second end of said elongated tube, wherein said elongated tube having a length and said one or

more rattle members movable within said elongated tube over a majority of the length of said elongated tube.

CLAIM 7 (currently amended) The marker of claim 6 further including a reflective strip disposed approximate to the second end of said elongated tube.

CLAIM 8 (currently amended) A marker for use ~~with~~ in marking an object disposed within or floating on a body of water, said marker comprising:

- an elongated tube having a first end and a second end;

- a weight internally disposed within said elongated tube at a first end of said elongated tube;

- a floatable member externally disposed on said elongated tube at an intermediate position along said elongated tube; and

- a loop assembly disposed at the second end of said elongated tube, said loop assembly including a cord member and a plug member, said plug member disposed within said elongated tube to close the second end of said elongated tube, said cord member attached to said plug member to form a loop at said second end of said elongated tube for easier retrieval of said elongated tube out of a body of water;

wherein when positioned within a body of water to mark an object said first end of said tube is disposed underwater and a portion of elongated tube protrudes out of the body of water.

CLAIM 9 (currently amended) A marker for use ~~with~~ in marking an object disposed within or floating on a body of water, said marker comprising:

- an elongated tube having a first end and a second end;

- a weight disposed at a first end of said elongated tube;

- a floatable member disposed at an intermediate position along said elongated tube; and

- a loop assembly disposed at the second end of said elongated tube, said loop assembly including a cord member and a plug

member, said plug member disposed within said elongated tube to close the second end of said elongated tube, said cord member attached to said plug member to form a loop at said second end of said elongated tube for easier retrieval of said elongated tube out of a body of water;

wherein when positioned within a body of water to mark an object said first end of said tube is disposed underwater and a portion of elongated tube protrudes out of the body of water;

wherein said plug member having a wall member defining an internal area and a first aperture and a second aperture disposed on an exposed portion of the wall member, said cord member having a first insertion end and a second insertion end;

wherein said first insertion end having a first member disposed through said first aperture and into said internal area, said first insertion end having a first stop member and a first intermediate member, said first stop member defining the distance the first member travels within said internal area and positions the first intermediate member such that it is at least partially disposed within said first aperture;

wherein said second insertion end having a second member disposed through said second aperture and into said internal area, said second insertion end having a second stop member and a second intermediate member, said second stop member defining the distance the second member travels within said internal area and positions the second intermediate member such that it is at least partially disposed within said second aperture;

wherein a bottom portion of said first member is at least slightly larger than said first aperture such that said first member is retained within said internal area;

wherein a bottom portion of said second member is at least slightly larger than said second aperture such that said second member is retained within said internal area.

CLAIM 10 (original) The marker of claim 9 wherein said first member of said first insertion end is substantially pyramid shaped and said second member of said second insertion end is substantially pyramid shaped.

CLAIM 11 (original) The marker of claim 9 wherein said first aperture and at least a portion of said first intermediate member are both substantially square shaped and said second aperture and at least a portion of said second intermediate member are both substantially square shaped to maintain said cord member in an upright position.

CLAIM 12 (original) The marker of claim 8 wherein at least a portion of the elongated tube that protrudes out of the body of water is provided with a high fluorescent color to improve visibility of said elongated tube.

CLAIM 13 (original) The marker of claim 8 wherein said floatable member is a piece of foam.

CLAIM 14 (original) The marker of claim 8 wherein said weight is a piece of steel.

CLAIM 15 (previously presented) The marker of claim 8 further including one or more rattle members disposed within said elongated tube between said weight and the second end of said elongated tube, wherein said elongated tube having a length and said one or more rattle members movable within said elongated tube over a majority of the length of said elongated tube.

CLAIM 16 (original) The marker of claim 8 further including a reflective strip disposed approximate to the second end of said elongated tube.

CLAIM 17 (cancelled)

CLAIM 18 (currently amended) ~~The marker of claim 17~~ A marker for use in marking an object disposed within or floating on a body of water, said marker comprising:

an elongated tube having a first end and a second end;

a weight internally disposed within said elongated tube at a first end of said elongated tube;

means for preventing said weight from significantly moving from its internally disposed position at the first end of said elongated tube, said means for preventing internally disposed within said elongated tube; and

a floatable member externally disposed on said elongated tube at an intermediate position along said elongated tube;

wherein when positioned within a body of water to mark an object said first end of said tube is disposed underwater and a portion of elongated tube protrudes out of the body of water;

wherein said means for preventing is an internal plug entirely disposed internally within and attached to said elongated tube and an end plug disposed at said first end of the said elongated tube, said weight disposed between said internal plug and said end plug.

CLAIM 19 (currently amended) The marker of claim 18⁷ wherein at least a portion of the elongated tube that protrudes out of the body of water is provided with a high fluorescent color to improve visibility of said elongated tube.

CLAIM 20 (currently amended) The marker of claim 18⁷ further including a loop member attached at a second end of said elongated tube to aid in retrieving said elongated tube from a body of water, said loop member not extending within said elongated tube.

CLAIM 21 (currently amended) The marker of claim 18⁷ wherein said floatable member is a piece of foam.

CLAIM 22 (currently amended) ~~The marker of claim 17 further including~~ A marker for use in marking an object disposed within or floating on a body of water, said marker comprising:

an elongated tube having a first end and a second end;

a weight internally disposed within said elongated tube at a first end of said elongated tube;

means for preventing said weight from significantly moving from its internally disposed position at the first end of said elongated tube, said means for preventing internally disposed within said elongated tube; and

a floatable member externally disposed on said elongated tube at an intermediate position along said elongated tube;

wherein when positioned within a body of water to mark an object said first end of said tube is disposed underwater and a portion of elongated tube protrudes out of the body of water;

one or more rattle members disposed within said elongated tube between said weight and the second end of said elongated tube, wherein said elongated tube having a length and said one or more rattle members movable within said elongated tube over a majority of the length of said elongated tube.

CLAIM 23 (currently amended) The marker of claim 18⁷ further including a reflective strip disposed approximate to the second end of said elongated tube.

CLAIM 24 (currently amended) A marker for use ~~with~~ in marking an object disposed within or floating on a body of water, said marker comprising:

a monolithically formed single piece elongated tube having a first end and a second end, said elongated tube having a substantially consistent same outer diameter from its first end to its second end and everywhere in between said first end and said second end;

a weight internally disposed within said elongated tube at a first end of said elongated tube, weight member having an outer diameter smaller than the inner diameter of said elongated tube;

means for preventing said weight from significantly moving from its internally disposed position at the first end of said

elongated tube, said means for preventing internally disposed within said elongated tube;

a foam member externally disposed on said elongated tube at an intermediate position along said elongated tube, said foam member having a virtually consistent same outer diameter from its first end to its second end and everywhere in between said first end and said second end; and

a loop assembly disposed at the second end of said elongated tube, said loop assembly including a cord member and a plug member, said plug member disposed within said elongated tube to close the second end of said elongated tube, said cord member attached to said plug member to form a loop at said second end of said elongated tube for easier retrieval of said elongated tube out of a body of water, said cord member not extending within said elongated tube;

wherein when positioned within a body of water to mark an object said first end of said tube is disposed underwater and a portion of elongated tube protrudes out of the body of water;

wherein at least a portion of the elongated tube that protrudes out of the body of water is provided with a high fluorescent color to improve visibility of said elongated tube.

CLAIM 25 (currently amended) The marker of claim 6 wherein said elongated tube having a virtually consistent same outer diameter from its first end to its second end and everywhere in between said first end and said second end.

CLAIM 26 (previously presented) The marker of claim 8 wherein said elongated tube having a virtually consistent same outer diameter from its first end to its second end and everywhere in between said first end and said second end.

CLAIM 27 (currently amended) The marker of claim 18 wherein said elongated tube having a virtually consistent same outer

diameter from its first end to its second end and everywhere in between said first end and said second end.

CLAIM 28 (currently amended) The marker of claim 61 wherein said floatable member having a virtually consistent same outer diameter from its first end to its second end and everywhere in between said first end and said second end.

CLAIM 29 (previously presented) The marker of claim 8 wherein said floatable member having a virtually consistent same outer diameter from its first end to its second end and everywhere in between said first end and said second end.

CLAIM 30 (currently amended) The marker of claim 187 wherein said floatable member having a virtually consistent same outer diameter from its first end to its second end and everywhere in between said first end and said second end.

REMARKS

This Amendment is responsive to the Office Action dated March 15, 2006.

Claims 1 and 17 have been cancelled without prejudice. Claims 2-9, 18-25, 27, 28 and 30 have been amended. No new matter has been inserted. Claims 2-16 and 18-30 remain pending in the application. Applicant respectfully requests reconsideration of the Examiner's rejections and objections.


Per the Examiner's comments, claims 6, 18 and 22 have been amended solely to be rewritten in independent form, which has not narrowed these claims in scope. Allowed claims 8, 9 and 24 have been amended to remove a grammatical error in the preamble, which has not narrowed these claims in scope.

All dependent claims either originally depend or have been amended to depend from an allowed or indicated to be allowable independent claim. Accordingly, all pending independent and dependent claims are believed to be in condition for allowance. In view of the above, Applicant respectfully requests that the Examiner withdraw the current objections and rejections.

Applicant has completely responded to the Office Action dated March 15, 2006. Favorable action is respectfully requested.

If there are any additional charges, including extension of time, please bill our Deposit Account No. 503180.

Respectfully submitted,



Daniel S. Polley, Reg. No. 34,902

CUSTOMER NO. 44538